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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/004,878	12/07/2001	Mark J. Lutian	87264.2620	7779
30734	7590	02/10/2005	EXAMINER	
BAKER + HOSTETLER LLP WASHINGTON SQUARE, SUITE 1100 1050 CONNECTICUT AVE. N.W. WASHINGTON, DC 20036-5304				BATURAY, ALICIA
ART UNIT		PAPER NUMBER		
		2155		

DATE MAILED: 02/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/004,878	LUTIAN ET AL.
	Examiner	Art Unit
	Alicia Baturay	2155

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 07 December 2001.  
 2a) This action is FINAL.      2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-20 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-20 is/are rejected.  
 7) Claim(s) 4 is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 07 December 2001 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date 02032005.

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

1. Claims 1-20 are pending

### ***Specification***

2. The disclosure is objected to because of the following informalities: on page 3, line 18, Applicant discloses that "... a technician 28 services Mainframe B 12 with its respective data tapes 22." It is believed that Applicant meant to refer to these data tapes as the ones shown labeled "24." Appropriate correction is required.
3. The disclosure is objected to because of the following informalities: on page 5, line 20, Applicant discloses "This is know as persistent queue." It is believed that Applicant meant to write "This is *known* as persistent queue." Appropriate correction is required.

### ***Claim Objections***

4. Claim 4 is objected to because of the following informalities: it is written in an outline format ((i) and (ii)), and should be written in sentence form. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
6. Claim 6 recites the limitation "the memory" in line 2. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Yates et al. (U.S. 6,496,791).
9. With respect to claim 1, Yates discloses an apparatus that grants simultaneous access to data stored in a mainframe environment, comprising: an emulation, which contains the data, appears to a mainframe computing system as a peripheral device (Yates, col. 2, lines 56-57) where the peripheral device provides access to the data to a plurality of requesters simultaneously through the creation of a unique nominal identification (ID) for each request (Yates, col. 6, lines 17-26).
10. With respect to claims 2, 10, and 16, Yates discloses an apparatus where the peripheral device is a tape drive (Yates, col. 2, lines 36-39).
11. With respect to claims 3, 9, and 15, Yates discloses an apparatus where the emulation is a message queue server system (Yates, col. 3, lines 9-13).

12. With respect to claim 4, Yates discloses an apparatus where the message queue server system is comprised of a device emulator (Yates, Fig. 1B, element 10; col. 3, lines 9-15) coupled to a first device (Yates, Fig. 1B, element 50; col. 2, lines 65-67) having a first protocol, a digital storage coupled to the device emulator for temporary storage of information from the first protocol (Yates, Fig. 1B, element 10; col. 3, lines 9-13), at least one manager coordinating the transfer of information of the first protocol between the device emulator and the digital storage and coordinating transfer of the information between the digital storage and a second protocol (Yates, col. 3, lines 16-23).
13. With respect to claims 5 and 11, Yates discloses an apparatus where a request for access results in device designation, a dataset name, the nominal ID (Yates, col. 4, lines 19-26) and the retention period (Yates, col. 5, lines 31-32).
14. With respect to claims 6, 12, and 17, Yates discloses an apparatus where the request for access is given the latest data stored in the memory (Yates, col. 4, lines 60-63).
15. With respect to claims 7, 13, and 18, Yates discloses an apparatus where a prior request for the data whose dataset name matches the name of the data in the request for access is updated to reflect the most current version of the data (Yates, col. 4, lines 60-63).
16. With respect to claim 8, Yates discloses a method for granting simultaneous access to data stored in a mainframe environment, the steps comprising: emulating a peripheral device in a

mainframe environment (Yates, col. 2, lines 56-57); storing the data on the peripheral device (Yates, col. 3, lines 29-33); and generating a unique nominal ID for each mainframe request to access the data (Yates, col. 6, lines 17-26).

17. With respect to claim 14, Yates discloses an apparatus for granting simultaneous access to data stored in a mainframe environment, comprising: means for emulating a peripheral device in a mainframe environment (Yates, col. 2, lines 56-57); means for storing the data on the peripheral device (Yates, col. 3, lines 29-33); and means for generating a unique nominal ID for each mainframe request to access the data (Yates, col. 6, lines 17-26).
18. With respect to claim 19, Yates discloses the apparatus where the means for updating is a key that references the data in a persistent store (Yates, col. 4, lines 10-14).
19. With respect to claim 20, Yates discloses the apparatus where the means for storing comprises at least one of the following storage devices: magnetic disk, optical disk and digital memory components (Yates, col. 3, lines 4-6).

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia Baturay whose telephone number is (571) 272-3981. The examiner can normally be reached at 7:30am - 5pm, Monday - Thursday, and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hosain Alam can be reached on (571) 272-3978. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Alicia Baturay  
February 7, 2005

*M. Kew*  
HOSAIN ALAM  
SUPPLYING PATENT EXAMINER